

App. No. 10/089,402
Reply to Office action of September 20, 2005

REMARKS

Favorable reconsideration of this application is requested in view of the above amendments and the following remarks. The Specification and claims 1, 3, 6, 8, and 9 are hereby amended. Claims 1, 3, 6, 8, and 9 are amended editorially.

The title was objected to for not being descriptive. The title is amended to address the concerns of the Examiner. Favorable reconsideration of the title is requested.

Claims 1 and 3 were objected to for informalities. Claims 1 and 3 are amended to address the concerns of the Examiner. Favorable reconsideration of claims 1 and 3 is requested.

Claims 1-4 were rejected as being anticipated by Yanagihara (JP 11-203710). Applicants traverse this rejection. Yanagihara does not disclose or suggest any particular relationship between a pit width and a track pitch, much less a pit width W that satisfies the relationship $Tp \times 0.37 \leq W \leq Tp \times 0.63$ with respect to a track pitch Tp of the recording medium or substrate, as required by claims 1 and 3. In fact, the Examiner concedes this point on page 5, lines 14-17 of the Office Action. While Yanagihara may discuss a relationship between a pit length and a groove width (track pitch), the reference does not suggest a particular pit width. The rejection's reliance on the figures of the reference is improper, as nothing in the reference indicates that the drawings are to scale. See *Hockerson-Halberstadt, Inc. v. Avia Group Int'l*, 222 F.3d 951, 956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000). In this case the disclosure gave no indication that the drawings were drawn to scale. It is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue. In contrast, the claimed relationship between pit width and track pitch provides reliable address information reproduction. Favorable reconsideration of claims 1-4 is requested.

Claims 1-4 were rejected as being unpatentable over Yanagihara in view of Shimizu (US 5,220,556). Applicants traverse this rejection. The rejection relies on

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Shimizu to teach the relationship between pit width W and track pitch T_p , $T_p \times 0.37 \leq W \leq T_p \times 0.63$, required by claims 1 and 3. Shimizu relates to a PEP or ROM area for identifying a disk type. This area includes no tracks on which user data is recorded. Shimizu is directed to improving stability of signal amplitude when reproduction with respect to the PEP area is performed **without** tracking. Since Yanagihara is drawn to reproduction from pits **with** tracking of the tracks on which user data is recorded, one would not be motivated to combining Yanagihara with Shimizu.

Further, Yanagihara discloses that contents recorded in the address pits vary from one track to another. Therefore, a signal leaking from a neighboring track becomes **noise**, and therefore would be avoided as much as possible. Shimizu discloses that pits are formed so as to be continuous in the form of concentric circles. Since reproduction is performed without tracking, the same information is recorded on every track. Therefore, in contrast to Yanagihara, a signal leaking from a neighboring track is treated as **normal** information.

Therefore, one skilled in the art would not be motivated to combine Yanagihara with Shimizu. Favorable reconsideration of claims 1-4 is requested.

In view of the above, favorable reconsideration in the form of a notice of allowance is requested. Any questions regarding this communication can be directed to the undersigned attorney, Douglas P. Mueller, Reg. No. 30,300, at (612)455-3804.

Dated: February 8, 2006



DPM:mfe

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Douglas P. Mueller".

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